

MONTANA LEGISLATIVE HISTORY

Chapter 194 1987

Bill H _____ S 368

Original bill & history ✓ C

H. Committee on Local Gov't.

Hearing Date(s) _____ C

3/11 ✓ C

_____ C

_____ C

Date Out

3/11 ✓ C

S. Committee on Local Gov't.

Hearing Date(s) _____ C

2/19 ✓ C

_____ C

_____ C

2/19 ✓

Did this bill originate in an interim committee? _____ Yes A No

Committee _____

Report _____

SENATE FINAL STATUS

3/17 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/20 2ND READING CONCURRED 72 25
 3/20 SEGREGATED FROM COMMITTEE OF WHOLE REPORT
 3/20 REREFERRED TO STATE ADMINISTRATION
 3/26 HEARING
 3/26 COMMITTEE REPORT--BILL NOT CONCURRED
 3/27 ADVERSE COMMITTEE REPORT ADOPTED 59 36
 3/27 RETURNED TO SENATE NOT CONCURRED

SB 366 INTRODUCED BY MEYER, TVEIT, FARRELL, ET AL.
 GROSS VEHICLE WEIGHT OFFICER'S STATUS CHANGED FROM
 PEACE OFFICER TO PUBLIC SERVANT
 BY REQUEST OF SENATE COMMITTEE ON HIGHWAYS &
 TRANSPORTATION

2/18 INTRODUCED
 2/18 REFERRED TO HIGHWAYS & TRANSPORTATION
 2/18 FISCAL NOTE REQUESTED
 2/21 HEARING
 2/23 FISCAL NOTE RECEIVED
 2/23 ADVERSE COMMITTEE REPORT ADOPTED 41 6
 AS AMENDED

SB 367 INTRODUCED BY HARDING
 EXEMPTING DAY-CARE HOMES FROM ZONING ORDINANCES
 BY REQUEST OF SENATE COMMITTEE ON LOCAL GOVERNMENT

2/18 INTRODUCED
 2/18 REFERRED TO LOCAL GOVERNMENT
 2/19 HEARING
 2/20 COMMITTEE REPORT--BILL PASSED 48 0
 2/21 2ND READING PASSED 46 4
 2/23 3RD READING PASSED

TRANSMITTED TO HOUSE
 2/24 REFERRED TO LOCAL GOVERNMENT
 3/09 HEARING
 3/11 COMMITTEE REPORT--BILL CONCURRED 86 11
 3/14 2ND READING CONCURRED 85 12
 3/16 3RD READING CONCURRED

RETURNED TO SENATE
 3/18 SIGNED BY PRESIDENT
 3/19 SIGNED BY SPEAKER
 3/19 TRANSMITTED TO GOVERNOR
 3/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 181 EFFECTIVE DATE: 3/24/87

SB 368 INTRODUCED BY STORY
 EXEMPTING MINES FROM STATE BUILDING CODE
 BY REQUEST OF SENATE COMMITTEE ON LOCAL GOVERNMENT

2/18 INTRODUCED
 2/18 REFERRED TO LOCAL GOVERNMENT
 2/19 HEARING
 2/20 COMMITTEE REPORT--BILL PASSED 49 1
 2/23 2ND READING PASSED 45 5
 2/25 3RD READING PASSED

TRANSMITTED TO HOUSE
 3/03 REFERRED TO LOCAL GOVERNMENT
 3/11 HEARING
 3/11 COMMITTEE REPORT--BILL CONCURRED

SENATE FINAL STATUS

3/14	2ND READING CONCURRED	66	32
3/16	3RD READING CONCURRED	71	26
	RETURNED TO SENATE		
3/19	SIGNED BY PRESIDENT		
3/20	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 194	EFFECTIVE DATE:	3/24/87

SB 369 INTRODUCED BY TVEIT, FARRELL, MEYER, ET AL.
REQUIRING REFLECTORIZED STRIPS ON RAILROAD CROSSING
SIGNS
BY REQUEST OF SENATE COMMITTEE ON HIGHWAYS &
TRANSPORTATION

2/18	INTRODUCED		
2/18	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/21	HEARING		
2/23	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	50	0
2/25	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/03	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/19	HEARING		
3/19	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	93	2
3/28	3RD READING CONCURRED	82	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	49	0
4/02	3RD READING AMENDMENTS CONCURRED	50	0
4/06	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 448	EFFECTIVE DATE:	4/09/87

SB 370 INTRODUCED BY JACOBSON, HAMMOND, JERGESON
CLARIFY TRAVEL EXPENSES FOR BOARDING STUDENTS AT
DEAF AND BLIND SCHOOL
BY REQUEST OF SENATE FINANCE & CLAIMS COMMITTEE

2/18	INTRODUCED		
2/18	REFERRED TO FINANCE & CLAIMS		
2/20	HEARING		
2/21	STATEMENT OF INTENT ADOPTED		
2/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	50	0
2/25	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/03	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/05	REFERRED TO APPROPRIATIONS		
3/18	HEARING		
3/18	COMMITTEE REPORT--BILL CONCURRED		
3/28	2ND READING CONCURRED	92	0
3/30	3RD READING CONCURRED	98	0
	RETURNED TO SENATE		
4/02	SIGNED BY PRESIDENT		

1 *Senate* BILL NO. *368*
2 INTRODUCED BY *Stony*
3 BY REQUEST OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING MINES AND
6 MINE BUILDINGS FROM THE STATE BUILDING CODES; AMENDING
7 SECTION 50-60-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 50-60-102, MCA, is amended to read:

12 "50-60-102. Applicability. (1) The state building
13 codes do not apply to:

14 (a) residential buildings containing less than five
15 dwelling units or their attached-to structures, any farm or
16 ranch building, and any private garage or private storage
17 structure used only for the owner's own use, located within
18 the municipality's or county's jurisdictional area, unless
19 the local legislative body or board of county commissioners
20 by ordinance or resolution makes the state building code
21 applicable to these structures; or

22 (b) mines and buildings on mine property regulated
23 under Title 82, chapter 4, and subject to inspection under
24 the Federal Mine Safety and Health Act.

25 (2) The state may not enforce the state building code

1 under 50-60-205 for the aforementioned buildings. Local
2 governments that have made the state building codes
3 applicable to the aforementioned buildings may enforce
4 within their jurisdictional areas the state building code as
5 adopted by the respective local government. The state may
6 not enforce the state building code under 50-60-205 for
7 those buildings.

8 (2)(3) Where good and sufficient cause exists, a
9 written request for limitation of the state building code
10 may be filed with the department for filing as a permanent
11 record.

12 (3)(4) The department may limit the application of any
13 rule or portion of the state building code to include or
14 exclude:

15 (a) specified classes or types of buildings according
16 to use or other distinctions as may make differentiation or
17 separate classification or regulation necessary, proper, or
18 desirable;

19 (b) specified areas of the state based upon size,
20 population density, special conditions prevailing therein,
21 or other factors which make differentiation or separate
22 classification or regulation necessary, proper, or
23 desirable."

24 NEW SECTION. Section 2. Effective date. This act is
25 effective on passage and approval.

-End-
-2-

INTRODUCED BILL
SB-368

and Sen. Halligan said it would send the excess funds to the general fund.

Sen. Halligan closed his presentation on SB 175.

ACTION ON SENATE BILL No. 175: Sen. Eck MOVED that SB 175 DO PASS. The MOTION PASSED on a 9-1 vote with Sen. Hammond dissenting.

CONSIDERATION OF SENATE BILL NO. 368: Sen. Story, of Emigrant, District 41, opened the hearing on SB 368 which would exempt mines and mine buildings from the State Building Codes.

PROPOSERS:

Ward Shanahan, representing Chevron Corporation, read written testimony into the record. See EXHIBIT 10.

John Fitzpatrick, representing Pegasus Gold Corporation, showed the committee photographs of the Montana Tunnels installation so members would have an idea of the type of construction being discussed. He told the committee that his operation was regulated by the Federal Mine Safety Act, which is extremely stringent. He felt that it was unnecessary to add the Montana inspection and asked to be exempted.

Jim Smolik, representing the Golden Sunlight Mines, read written testimony into the record. See EXHIBIT 11.

Gary Langley, Executive Director of the Montana Mining Association, said, because the mining industry is already stringently regulated, that further regulation by the State of Montana, which sometimes conflicts with federal regulations, should not be imposed on the industry.

OPPOSERS:

Jim Kembel, Business Regulation Division of the Department of Commerce, read written testimony. See EXHIBIT 12.

Gene Fenderson, Montana Building Construction Trades Council, said he opposes the bill because of the mining companies who do not have the expertise and willingness to construct safe buildings and installations who will be exempt from the inspections. He hoped there would be some compromise he could accept, but would have to oppose the bill in its present form. County assessors use building permits for basing tax assessments and he thought this should be investigated pertaining to the bill.

Ray Blehm, State Fire Marshall, said that safety is eroded

when building inspection is deregulated.

QUESTIONS FROM THE COMMITTEE:

Sen. Crippen asked the opponents if they felt they could work on amendments with the mining industry in an effort to write a bill that would meet the objectives of the bill. Mr. Fenderson and Mr. Smolik said they would be willing.

Sen. Pinsoneault asked Mr. Fitzpatrick the cost of licensing inspections from the State. Mr. Fitzpatrick said he thought the original cost was about \$9,500.

Sen. Hirsch asked if the same problems occurred when Colstrip 3 and 4 were built. Mr. Shanahan said the Occupational Health and Safety Act (OSHA) would cover industrial facilities not covered by the Mine Safety Act which covers the mining industry, and OSHA covers everything MOSHA doesn't cover. Colstrip was not considered a public place, but under this law, mines are considered public places.

In closing, Sen. Story said the bill had been carefully documented and urged its passage.

ACTION ON SENATE BILL NO. 368: Sen. Story MOVED that SB 368 DO PASS. The MOTION PASSED by a vote of 9-1, with Sen. Walker voting "no".

ACTION ON SENATE BILL NO. 316: Sen. Hammond MOVED that SB 316 DO PASS.

Sen. Hirsch explained to the committee that the bill provides the same criteria for the exchange of state land as if it were a sale and, in particular to state lands within 4 1/2 miles of a municipality. He said there is a so-called "loop-hole" in the law and this bill attempts to close that loophole.

Sen. Beck said he read the bill to require subdividing but, in talking to Rep. Rehberg, was told the intent of the bill was to require appraisal. Sen. Crippen read from the bill: "No exchange may occur unless land is first subdivided." Sen. Eck thought the bill was to provide the argument for not exchanging it, meaning it couldn't be done unless the land had been subdivided in accordance with the county ordinances. Sen. Beck felt the appraisal part of it should be clarified allowing equal values exchanged. Sen. Hirsch said the bill was to prevent a trade of barren land worth less and said it would provide the ability to appraise the land higher. Sen. Harding felt if it was subdivided, then a more accurate appraisal would be reached. Sen. Eck said the best use of the land could be something other than subdividing.

ROLL CALL

Senate Local Government COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

DATE Feb 19 1987
Local Government

[illegible]

E-7.10
2-19-87
SB 368

NAME: Ward A. Shanahan

BILL NO. SB 368

ADDRESS: 301 First National Bank Building, Helena, MT

WHOM DO YOU REPRESENT: Chevron Corporation

SUPPORT

Dear Chairman and Members of the Committee:

Chevron Resources and Stillwater Mining Company strongly support SB 368.

The imposition of Montana Building Code standards to an industrial facility is inappropriate and conflicts with other existing law.

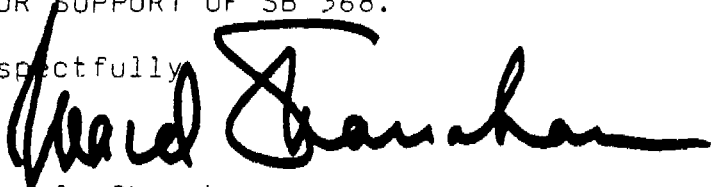
Industrial facilities, and in particular mining facilities, are regulated by the Mine Safety and Health Act (MSHA) and the Occupational Safety and Health Act (OSHA). It is inappropriate to impose upon an industrial facility "public access concepts which were designed for buildings into which the public is invited."

The public is not invited into a mining facility on a day-by-day basis. MSHA and OSHA are designed to provide worker safety in industrial areas where workers are required to be given special training to protect themselves, special equipment to protect their bodies and the work place is designed to afford health safety and still get the job done in the facility.

An industrial facility therefore does not require the additional protection required for members of the public in various states of health, suspecting and unsuspecting, who are allowed to wander at will, in and out of public buildings. To require the industrial owner to provide those extra precautions necessary to protect the casual visitor is both unnecessary and burdensome.

WE WOULD APPRECIATE YOUR SUPPORT OF SB 368.

Respectfully,



Ward A. Shanahan
Chevron Corporation
301 First National Bank Building
P.O. Box 1715
Helena, MT 59624
Tele: (406)442-8560

Testimony on Senate Bill 368

Mr. Chairman and Committee Members:

My name is Jim Smolik and I represent Golden Sunlight Mines, Inc., an open pit gold mine located 5 miles east of Whitehall. We support this bill because of the burdensome and expensive aspect of having to deal with multiple layers of regulatory agencies. Evidently, since our initial plant construction in 1982, the State Building Codes Division has been added to our review list in addition to MSHA and the State Department of Labor and Industry.

The Uniform Building Codes relate well to public buildings and are necessary for buildings such as apartment complexes and assembly line manufacturing plants where many employees or members of the public are involved. These codes do not recognize the unique character of complex metallurgical processing equipment generally housed in large buildings. This equipment usually has many access floors and stairways around it for operations and maintenance accessibility. Also, good visibility is a necessity resulting in the standard MSHA approved handrail design. Trained operations personnel make periodic inspections as part of their duties with very few people in or around the buildings at any certain time period.

In 1982, the Building Codes Division gave Golden Sunlight a letter stating that we must get building permits for the buildings where we had the greatest human density, i.e., office, employee changehouse and assay office. They exempted the metallurgical processing buildings from the permitting requirements. This was an acceptable situation.

In 1986, the Building Codes Division said we needed a building permit for our Sand Tailing Retreatment metallurgical processing plant. After paying the \$2800 fee, problems immediately arose

on the classification of our building. It took several meetings between ourselves, legal counsel, and the Building Codes personnel before a classification could be resolved. After construction started, a Building Codes inspector appeared on site and declared our handrails did not meet code although they are standard throughout the mineral processing industry and were used in our initial plant construction. Following many meetings, more legal expense, and a hearing in which the federal MSHA inspector stated that they had no record of any accidents or injuries ever occurring in a processing plant because of this handrail use, we were granted an exemption. Our cost for this exercise was many times the building permit fee.

Subsequently, an electrical inspector appeared and stated that we could not use our electrical personnel for construction because they did not have licenses. This is difficult to comprehend because of the special training and expertise that these individuals have. In fact, these individuals even assisted our corporate Engineering Department with electrical design for this plant. Because of the State restrictions, our personnel are not even allowed to take the examination for licensing! Our corporate personnel were shocked at this treatment knowing the capabilities of all parties involved. These individuals have been involved in the design and construction of 11 similar metallurgical plants in the United States, Canada and Mexico, the Philippines and Australia. Of course, this conflict resulted in more trips to Helena, correspondence, legal work and expense for the project.

In conclusion, the above changes in State building code policy between 1982 and 1986 are not needed for the State of Montana, our employees or for our mineral industry. The duplication and code interpretation differences between MSHA and the State Building Codes Division is unsettling, costly and nonproductive. Please give this bill serious consideration and help remove some of the obstacles for mining in Montana.

TESTIMONY OF W. JAMES KEMBEL
BUSINESS REGULATION DIVISION - DEPARTMENT OF COMMERCE

SB 368

AN ACT TO AMEND THE APPLICABILITY OF THE MONTANA BUILDING CODE TO EXCLUDE MINES AND BUILDINGS ON MINE PROPERTY REGULATED UNDER TITLE 82, CHAPTER 4

As drafted the bill will leave the department with a manageable program.

The department wishes to note that even though the bill is workable there is a need to clarify some points. The intent of the proposed legislation is to eliminate a duplication of effort concerning structures under the regulation of the Federal Mine Safety and Health Act and the states inspection program.

The OSHA inspection program, whether at the state or federal levels, is solely for the protection of the employees from direct work hazards and does not concern itself with the impact the building structure itself has on the safety of the building's occupants.

The code enforcement program of the state is concerned with the adequacy of the building's foundation and structural system, the fire resistance of the building based on the use housed therein and the size of the building, the ventilation of the building to maintain healthy air, adequate restroom facilities, adequate exiting, safe electrical system to prevent fire and shock hazards and a number of other safety concerns.

The OSHA inspection program is concerned with such things as safe ladders, guardrails, slipping hazards, hard hats and other direct work related items.

If anything the two inspection programs are complimentary rather than duplicative. With the passage of this legislation there will be a number of large office and other plant facilities that will go without inspection except for those standards of OSHA. The buildings at mine sites are no different than those type structures at other industrial facilities that we now cover and would continue to cover should this legislation pass.

In closing we would note that Sec. 50-60-203, MCA makes the department the sole state agency for the adoption of standards relating to building construction.

STANDING COMMITTEE REPORT

February 13, 1937

MR. PRESIDENT

We, your committee on Local Government

having had under consideration Senate Bill No. 363

First reading copy (white)
color

EXEMPTING MINES AND MINE BUILDINGS FROM THE STATE BUILDING CODES

Respectfully report as follows: That Senate Bill No. 363

DO PASS

~~EXEMPTING~~

SENATOR BRUCE CRIPPEN

Chairman.

of state lands. He said if that were true then it would be a concern.

In closing, Senator Hirsch stated the purpose of the bill was not to stop any exchanges of state lands for private land. He stated the origination of the bill came from former Senator Bill Mathers of Mile City who stated to him that the highest and best value for state lands was not being received given the exchange loophole and asked that it be corrected. Senator Hirsch stated speaking with Senator Max Conover, author of the provisions for the sale arrangement under 77-2-312, that Senator Conover stated that was not intended to be a loophole. He had inadvertently left out the criteria that should have applied to exchanges also. Senator Hirsch commented that Rep. Ramirez was quite familiar with the specific situation talked about around Billings and before the committee took executive action, he thought Rep. Ramirez would like to talk to the committee and inform them of those specifics.

DISPOSITION OF SENATE BILL 368: Senator Pete Story, Senate District 41 and sponsor of the bill, stated the bill is a committee bill adopted by the Senate Local Government Committee. He said there are exemptions to the state building codes. SB 368 adds to that list of exemptions mines, mine buildings and mine property regulated by the federal government.

PROPOSERS: John Fitzpatrick, Manager of Administration MT Tunnels Mining, Inc., a subsidiary of Pegasus Gold Corporation, stated they have been impacted by the regulations from the state in respect to construction of the facility and with mine safety in general. He said there are three agencies that regulate the construction of mine and mineral processing facilities. Mr. Fitzpatrick stated the largest and perhaps the most important is the Federal Mine Safety and Health Administration (MSHA) that works under the federal Mine Safety and Health Act of 1977. Their jurisdiction over mining and mining properties is very comprehensive. There is also a State Mine Inspection Bureau located in the Workers' Comp Division. They use a standard for regulating very similar to MSHA. The third agency that regulates and has only regulated since 1981 is the MT Building Codes Bureau which is in the Department of Commerce. Mr. Fitzpatrick stated prior to 1981 mines were not subject to building codes instructions or standards. In 1981 the definition of public place was stricken from the statutes and unless it was an exemption then it was included in the building code. He stated to their knowledge there was no intention to bring mines under the building codes. He felt it was just something that happened when they reconstructed the act.

Mr. Fitzpatrick stated the problem is three different agencies are inspecting them for much the same type of things and there is a duplication of regulations. He said they do incur financial costs even if just for time spent with the inspectors touring the facility. Mr. Fitzpatrick stated they had spent close to \$10,000 in building code fees. He said that the facility was acceptable by MSHA and the state mine inspector but was not acceptable to building codes. He said there was a dispute over the use of handrails in their facility. He passed out a letter which he had sent to Senator Crippen which described the handrail situation (Exhibit 2). He stated the handrail design at the MT Tunnels is used throughout the United States in mines and chemical facilities and is acceptable. He stated in Montana it is not acceptable because the state building codes have a different requirement for the spaces between the rails. Mr. Fitzpatrick stated in order to receive a variance from the state to use the original handrails they had to go to a contested case hearing. Mr. Fitzpatrick passed out photographs of mines and other places in the U.S. to the committee for their review. The pictures showed the interior of MT Tunnels and the construction involved in the facility. He said to replace and redesign the handrails as MT Building Codes required, would have cost an estimated \$120,000. He stated similar problems would have been faced at the Sunlight Mines.

Mr. Fitzpatrick said in their opinion the use of the MT Building Codes is inappropriate. He stated they feel they are adequately covered and supervised by MSHA. He said MSHA may not use the same type of standard in many instances as the building codes but they do have the authority under the act to shut down and vacate the premises in the case of a dangerous condition and order that the condition be corrected before allowing reopening (Exhibit 3). Mr. Fitzpatrick said that is a far more compelling standard for the money that would be lost than anything promulgated by MT Building Codes. He stated there has been some concern expressed by people in the construction industry about the application of the national electrical code. He stated MSHA uses the national electric code as their standard just as MT Building Codes does.

Ward Shanahan, Lobbyist Chevron Resources Corporation and Attorney for Golden Sunlight, presented the committee with testimony (Exhibit 4). He pointed out that the uniform building codes is a broad code that is designed to protect the general public walking in and out of public buildings and places where public access is afforded especially to children, elderly and disabled people. Mr. Shanahan stated that kind of construction is not being dealt with here. He said the people are required by the Mine Safety and Health

Act to be expressly educated in what they are suppose to do around the facility. They are given special shoes, special protective equipment, helmets, breathing apparatus, first aid kits and are taught about the dangers in an industrial facility. Mr. Shanahan stated when post office type standards are imposed on this kind of facility the costs increase substantially and it is more difficult to operate the facility. He felt the Mine Safety and Health Act and Occupational Safety and Health Acts adequately cover them.

Gary Langley, Executive Director of the MT Mine Association, stated the mining industry is not trying to avoid any regulations but are trying to avoid duplication and conflicts. He stated the mining association would appreciate support of the bill.

Kenneth Williams, Entech, a subsidiary of Western Energy Company, stated the other proponents had commented on the duplication of regulations. He stated even in a situation where changes are not required there is still an impact. Mr. Williams stated they recently built a safety building at Rosebud Mine. The total cost was about \$46,000 and the fee to comply with the state building codes was \$452, almost one percent of the cost. He stated in that case there was not any change in construction needed but the added review costs were also significant.

Jim Kembel, Administrator of the Business Regulation Division Department of Commerce, presented testimony to the committee (Exhibit 5).

OPPONENTS: Gene Fenderson, MT Building and Construction Trade Unions, stated the building trade unions have had a long-term stated policy to promote and protect the building codes for cities and counties across the nation. He said the original intent of the building codes were for safety of not only the construction workers but those who would work inside those buildings. He said they feel that those reasons still prevail today.

He pointed out that the people who testified on behalf of the bill represent large corporations. He said those owners and stockholders have a great deal invested in those properties and because of that they are done properly. He said the exemption for mines in the bill would also include those operators who may not have the track record as the Pegasus Gold Mine Operation and MT Tunnels and Golden Sunlight. Mr. Fenderson stated they believe that OSHA and MSHA are built for the safety of workers but they do not look at the structure of the buildings and how they are put together. For those reasons, he asked the committee to look at the bill very closely.

Bill Eagen, President of MT Conference of Electrical Workers and First Vice President of the MT Building Construction Trades, stated he has been involved with mining all his life. He gave his background in mining and construction for the committee. Mr. Eagen stated with this type of background he knew that the average mine operator, supervisor and engineer does not have the experience or technical know-how unless they have considerable previous background in the construction field. He said he knew this to be true because he has also gone into the electrical construction field and he gave his background in the electrical field.

Mr. Eagen stated the idea that OSHA and MSHA mine safety requirements will take care of the problems is a fallacy. He said construction itself is covered by OSHA and their work forces are covered by OSHA, even the electrical contractors. He stated OSHA never has anything to do with the actual building of the structure as far as requirements and proper installation. He said he was addressing just the electrical aspects. Mr. Eagen stated the actual structural mechanical, and electrical problems are usually covered up or out of sight as pertaining to the new erection. He commented that anyone in the mining industry or construction industry can honestly say that OSHA and MSHA laws do not cover those issues for concerns that SB 368 considers here today. He asked the committee to not pass SB 368. He stated he was more concerned with the electrical and mechanical end of the bill and stated that possibly there could be some amendments to those facts.

DISCUSSION (OR QUESTIONS) ON SENATE BILL 368: Rep. Brown stated the bill refers to Title 82, Chapter 4 and asked if that covers hardrock as well as coal and the other things in the Chapter?

Gary Langley replied that he assumed it did.

Mr. Fitzpatrick responded to the question that Chapter 4 is all mines except small mines. He said Mr. Fenderson raised a question about the small operator. Mr. Fitzpatrick stated the bill does not exempt them.

Rep. Brown stated he was curious as to whether this is a problem with Golden Sunlight?

Mr. Langley commented he could furnish Rep. Brown with testimony from the Senate hearing from Golden Sunlight.

Rep. Hansen stated Mr. Kembel's testimony pointed out that there would be no building inspection for structures, foundation or fire since OSHA only addresses other things

such as guardrails and so on. She asked who then would inspect it and how often would OSHA come to inspect the buildings?

Mr. Fitzpatrick stated there needed to be a correction on Mr. Kembel's testimony. He said mines are handled exclusively by MSHA. OSHA does not come on the property. He stated MSHA comes on the property sometimes twice a month to do inspections that can take three or four days. He said they also do a follow-up investigation on the entire property if an accident occurs. Mr. Fitzpatrick stated they do look at the facility as it is being constructed. He said they use documents like the national electrical code and even use the building codes as a reference document in inspection of the facility.

Rep. Hansen stated that would really then leave portions uninspected.

Mr. Fitzpatrick responded not as far as they were concerned.

Rep. Darko commented she has had some experience with commercial buildings in her area in regards to the building codes. She said it seems that those people that do the building code inspections are very highly trained and could not believe that MSHA inspectors have that kind of technical expertise to inspect those kinds of things the building code inspectors do. She asked for a response.

Mr. Fitzpatrick stated he would disagree and felt MSHA is a more appropriate inspection because of having specific experience with the mining industry. He said they are familiar with the facilities, the process, piping systems and electrical systems. He commented that when they were involved in a contested case hearing, the building code inspector admitted that it was the first time he had ever dealt with a mining facility. Mr. Fitzpatrick said in his judgement, the people at building codes are very capable of handling schools, hospitals, shopping centers, residential facilities and things of that nature but they do not have the expertise in this state to handle mining facilities.

Rep. Squires asked Gene Fenderson if he felt that MSHA has the technical skill for these inspections?

Mr. Fenderson stated MSHA and OSHA do not normally have the expertise to do structural bearing walls and that type of inspection on structures. He stated they get into the personal safety of employees or other people that may go into a building.

Rep. Squires asked what would happen if there was an addition or correction, or if something went wrong with the electrical facilities? She asked who would be responsible and would protect the worker when he is employed in this situation?

Mr. Fitzpatrick responded it is the companies' responsibility for providing a safe working environment. They did not feel it possible to build and operate a working environment that would meet MSHA and OSHA certification and build an unsafe structure. He said the two are incompatible. Mr. Fitzpatrick stated the state building inspector did not challenge their designs or major structural components but hit them with things such as guardrails, fire doors, and enclosing stairwells in a certain manner.

Rep. Squires stated her understanding is that the building code inspector would be responsible for those particular things. She asked Mr. Fitzpatrick if he felt that was not an important factor?

Mr. Fitzpatrick replied he considered them very important factors but did not feel that the state building codes should override the MSHA codes. He said MSHA codes have been designed and work in 50 states for mining facilities. He said they thought the building code is not appropriately placed. He said they accept the regulation but think the regulation should be from a specialist.

Senator Story in closing showed the committee the book of regulations and stated they were very thick and very detailed. He read regulations dealing with electricity and on locating joists. He thought the public and the people that work in these places are protected by these codes. He said the bill tightens up the rules so these groups regulated by MSHA do not get contradictory regulations from a state agency. He stated mines that are not covered in the section are still under the regulation of state. Senator Story commented major industry for the state is being talked about and the bill will give them some financial assistance and not tie them up in unnecessary types of red tape.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 367: Rep. Kitselman moved that SB 367 BE CONCURRED IN.

Rep. Brandewie moved to AMEND SB 367 with the amendments proposed by the planners (Exhibit 6).

Rep. Hansen commented the amendments would ruin the bill.

Rep. Brandewie withdrew his motion to adopt the amendments.

Rep. Sales moved as a substitute motion that SB 367 BE NOT CONCURRED IN. He said he could not see why the legislature should write things into law that tells the local governments how to zone in a particular area. He said the system they are using works very well. If the local governments only want to allow certain types of uses then they hold public hearings where the people of the community are heard. A determination is made at the local level. Rep. Sales said that is exactly where it belongs.

The question was called and the motion failed.

The committee reverted back to Rep. Kitselman's motion that SB 367 BE CONCURRED IN. The question was called and the motion carried with Rep. Sales and Rep. Gilbert voting no.

DISPOSITION OF SENATE BILL 368: Rep. Kitselman moved that SB 368 BE CONCURRED IN. The question was called and the motion carried with Rep. Brown and Rep. Squires voting no.

DISPOSITION OF SENATE BILL 28: Rep. Brown moved that SB 28 BE CONCURRED IN.

Rep. Sales stated with a charter form of government, Butte-Silver Bow could have passed a regulation to take care of the problem. He said the city should be responsible for what happens in the street. Rep. Sales felt it ridiculous for the legislature to take an agreement between a city and a private service and change the rules. He said this is not a legislative problem but a problem because of having a private water system. He said the bill is a terrible piece of legislation and hoped the committee voted against it.

Rep. Brandewie moved to AMEND SB 28, page 1, line 22, after "for", insert "labor costs".

He said the property owner would then pay for the labor costs, pipe and other supplies.

Rep. Pistoria stated he was for the bill 100 percent because he knows what they are going through. He asked if Senator Lynch mentioned labor too.

Rep. Brandewie stated Senator Lynch did not want to pay for the labor cost. Rep. Brandewie stated it is the homeowners responsibility to pay for the labor from the main to the house and if they are going to have the company doing it they ought to pay for the labor. He stated if the bill passed, the company should not be forced to pay the labor costs on the customers' line.

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date _____

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN			
REP. RAY BRANDEWIE, VICE CHAIRMAN			
REP. BUDD GOULD			
REP. REP. TIMOTHY WHALEN			
REP. PAULA DARKO			
REP. TOM BULGER		✓	
REP. JAN BROWN			
REP. BOB GILBERT			
REP. LARRY GRINDE			
REP. WALTER SALES			
REP. STELLA JEAN HANSEN			
REP. PAUL PISTORIA			
REP. ROBERT HOFFMAN			
REP. LES KITSELMAN			
REP. JACK RAMIREZ			
REP. DAVE BROWN			
REP. CAROLYN SQUIRES			

STANDING COMMITTEE REPORT

March 11

19 37

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report SB 358

- ☐ do pass
- ☐ do not pass

- ☒ be concurred in
- ☐ be not concurred in

- ☐ as amended
- ☐ statement of intent attached

Rep. Norm Wallin

Chairman

(Rep. Kitzelman)

THIRD

BLUE

reading copy ()
color



PEGASUS GOLD CORPORATION
Montana Tunnels Mining Inc.

February 12, 1987

Sen. Bruce Crippen
Chairman
Senate Local Government
State Capital Station
Helena, MT 59601

Dear Sen. Crippen:

This letters is to request the consideration of the Senate Local Government Committee in drafting a bill to exempt mines and buildings on permitted mine property from the Montana Building Code. At present, mine and mineral process facilities are subject to regulation under the Montana Building Codes Act, Montana Mine Safety Act, and the Federal Mine Safety And Health Act.

Background

Prior to 1981 mines and mineral processing facilities were not subjected to the Montana Building Code. In that year, the Act was revised by deleting reference to "public places". As a consequence, all structures, public and private, were made subject to the building code unless specifically exempted by section 50-60-102 MCA. There is not evidence from the record that the 1981 building code revision specifically sought to bring mine and mineral processing facilities under the Act.

Problem

Three agencies using two separate standards for evaluating building and equipment safety now regulate the construction of mine and mineral processing facilities. The Federal Mine Safety And Health Administration (MSHA) and Montana Mine Safety Bureau use a standard developed by MSHA and administered through the Code of Federal Regulation (CFR, Volume 30, Parts 0-199). The Montana Building Codes Bureau administers the Uniform Building Code. The two standards either duplicate or conflict with one another and in the process subject firms like Montana Tunnels with regulatory impediments that can be difficult to resolve. For example,

Montana Tunnels was designed by Wright Engineers Limited, world leaders in the design of mining and metallurgical facilities. For Montana Tunnels, Wright specified a handrail design that is considered to be the standard for the industry with a top rail approximately 40 inches from the ground, a toe plate, and a guard rail half way between the toe plate and top rail. The spacing between the guards is about 16 inches. The proposed design is available "off the-shelf" in relatively inexpensive, prefabricated panels. That design is used in all 50 states and approved by both MSHA and the Montana Mine Safety Bureau. The proposed handrail design does not meet specifications of the Montana Building Code. It requires handrails with a spacing between guards not to exceed 12 inches. The State had no evidence to show that handrails with a 12 inch spacing were superior to or safer than handrails with 16 inch spacing.

Montana Tunnels and the Colden Sunlight Mine requested a variance from the building code and were granted same after winning a contested case hearing. Had we lost the case this firm would have been required to reorder and/or refabricate handrails with an increase in cost of approximately \$ 115,000.

Effect of Proposed Bill

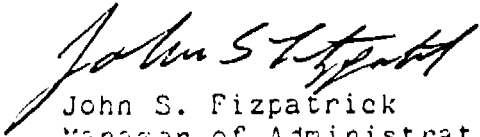
Attached please find a draft of the proposed legislation. As drafted, mines and building's located on mine properties that have been permitted under Title 82, Chapter 4 MCA but subject to inspection by MSHA would be exempt from the State building code. The effect of the legislation is as follows:

1. It will eliminate one layer of regulation. Buildings located on mine property would continue to be inspected and subject to regulation by the Montana Mine Safety Bureau and MSHA.
2. It will place mine safety regulation in the hands of agencies with specific experience and expertise in mine design, construction, and operation. The Montana Building Codes Bureau is staffed by dedicated, straightforward, and cooperative individuals but their experience is predominately with commercial and residential construction, and not with metallurgical facilities.

3. It will not disrupt the State Building Code program nor will it shift the code or inspection responsibility to local government. Regulation will continue at the Federal level with support from the Montana Mine Safety Bureau.
4. It will expedite construction of mine and metallurgical facilities and reduce their cost.
5. It returns both the mining industry and state of Montana to a regulatory relationship that existed prior to 1981. There is not evidence that the application of the state building code to mine and mineral processing facilities since that date has had one bit of positive effect on the health, safety, or welfare of mine employees.

Thank you for your time, help, and consideration.

Very truly yours,



John S. Fitzpatrick
Manager of Administration

JSF:pap
enc.

(k) In the event of any accident occurring in a coal or other mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in such mine or to recover the coal or other mine or return affected areas of such mine to normal.

CITATIONS AND ORDERS

Sec. 104. (a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a coal or other mine subject to this Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this Act, he shall, with reasonable promptness, issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

(b) If, upon any follow-up inspection of a coal or other mine, an authorized representative of the Secretary finds (1) that a violation described in a citation issued pursuant to subsection (a) has not been totally abated within the period of time as originally fixed therein or as subsequently extended, and (2) that the period of time for the abatement should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to immediately cause all persons, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(c) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal or other mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make such mine examinations or who is accompanied by such person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

(4) any consultant to any of the foregoing.

(d)(1) If, upon any inspection of a coal or

other mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any citation given to the operator under this Act. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall promptly be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provision of paragraph (1) shall again be applicable to that mine.

(e)(1) If an operator has a pattern of violations of mandatory health or safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards, he shall be given written notice that such pattern exists. If, upon any inspection within 90 days after the issuance of such notice, an authorized representative of the Secretary finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the authorized representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard. The withdrawal order shall re-

FILE	3
DATE	3-11-87
SB	368

ceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within 30 days after issuance of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such 30-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 105, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 110, in addition to invoking any other available remedies.

(c) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Commission or the Panel.

PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

Sec. 107. (a) If, upon any inspection or investigation of a coal or other mine which is subject to this Act, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger and the conditions or practices which caused such imminent danger no longer exist. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 104 or the proposing of a penalty under section 110.

(b)(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

(2) Upon the conclusion of an investigation pursuant to paragraph (1), and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (c) of section 104 to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(c) Orders issued pursuant to subsection (a) shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger and a description of the area of the coal or other mine from which persons must be withdrawn and prohibited from entering.

(d) Each finding made and order issued under this section shall be given promptly to the operator of the coal or other mine to which it pertains by the person making such finding or order, and all of such findings and orders shall be in writing, and shall be signed by the person making them. Any order issued pursuant to subsection (a) may be modified or terminated by an authorized representative of the Secretary. Any order issued under subsection (a) or (b) shall remain in effect until vacated, modified, or terminated by the Secretary, or modified or vacated by the Commission pursuant to subsection (e), or by the courts pursuant to section 106(a).

(e)(1) Any operator notified of an order under this section or any representative of miners notified of the issuance, modification, or termination of such an order may apply to the Commission within 30 days of such notification for reinstatement, modification or vacation of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, vacating, affirming, modifying, or terminating the Secretary's order. The Commission and the courts may not grant temporary relief from the issuance of any order under subsection (a).

(2) The Commission shall take whatever action is necessary to expedite proceedings under this subsection.

INJUNCTIONS

Sec. 108. (a)(1) The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal or other mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent—

(A) violates or fails or refuses to comply with any order or decision issued under this Act,

DATE 3-11-87

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368

NAME: Ward A. Shanahan

BILL NO. SB 368

ADDRESS: 301 First National Bank Building, Helena, MT

WHOM DO YOU REPRESENT: Chevron Corporation

SUPPORT

Dear Chairman and Members of the Committee:

Chevron Resources and Stillwater Mining Company strongly support SB 368.

The imposition of Montana Building Code standards to an industrial facility is inappropriate and conflicts with other existing law.

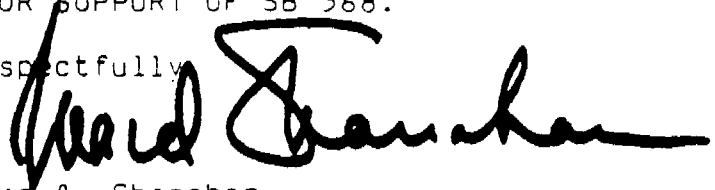
Industrial facilities, and in particular mining facilities, are regulated by the Mine Safety and Health Act (MSHA) and the Occupational Safety and Health Act (OSHA). It is inappropriate to impose upon an industrial facility "public access concepts which were designed for buildings into which the public is invited."

The public is not invited into a mining facility on a day-by-day basis. MSHA and OSHA are designed to provide worker safety in industrial areas where workers are required to be given special training to protect themselves, special equipment to protect their bodies and the work place is designed to afford health safety and still get the job done in the facility.

An industrial facility therefore does not require the additional protection required for members of the public in various states of health, suspecting and unsuspecting, who are allowed to wander at will, in and out of public buildings. To require the industrial owner to provide those extra precautions necessary to protect the casual visitor is both unnecessary and burdensome.

WE WOULD APPRECIATE YOUR SUPPORT OF SB 368.

Respectfully



Ward A. Shanahan
Chevron Corporation
301 First National Bank Building
P.O. Box 1715
Helena, MT 59624
Tele: (406)442-8560

4234W

DATE 3-11-87
68 368

WITNESS STATEMENT

NAME JIM KEMPF BILL NO. 368
ADDRESS Bus. Reg. Division DATE 3-11-87
DOC
WHOM DO YOU REPRESENT? DOC
SUPPORT _____ OPPOSE _____ AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.
Comments: Attaching

TESTIMONY OF W. JAMES KEMBEL
BUSINESS REGULATION DIVISION - DEPARTMENT OF COMMERCE

SB 368

AN ACT TO AMEND THE APPLICABILITY OF THE MONTANA BUILDING CODE TO EXCLUDE MINES AND BUILDINGS ON MINE PROPERTY REGULATED UNDER TITLE 82, CHAPTER 4

As drafted the bill will leave the department with a manageable program.

The department wishes to note that even though the bill is workable there is a need to clarify some points. The intent of the proposed legislation is to eliminate a duplication of effort concerning structures under the regulation of the Federal Mine Safety and Health Act and the states inspection program.

The OSHA inspection program, whether at the state or federal levels, is solely for the protection of the employees from direct work hazards and does not concern itself with the impact the building structure itself has on the safety of the building's occupants.

The code enforcement program of the state is concerned with the adequacy of the building's foundation and structural system, the fire resistance of the building based on the use housed therein and the size of the building, the ventilation of the building to maintain healthy air, adequate restroom facilities, adequate exiting, safe electrical system to prevent fire and shock hazards and a number of other safety concerns.

The OSHA inspection program is concerned with such things as safe ladders, guardrails, slipping hazards, hard hats and other direct work related items.

If anything the two inspection programs are complimentary rather than duplicative. With the passage of this legislation there will be a number of large office and other plant facilities that will go without inspection except for those standards of OSHA. The buildings at mine sites are no different than those type structures at other industrial facilities that we now cover and would continue to cover should this legislation pass.

In closing we would note that Sec. 50-60-203, MCA makes the department the sole state agency for the adoption of standards relating to building construction.